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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

TOBY G. SCAMMELL,

Defendant.

Case No. LACV-11-6597 DSF (MRWx)

**JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF AS
TO DEFENDANT TOBY G.
SCAMMELL**

1 Plaintiff Securities and Exchange Commission (“Commission”) having filed
2 a Complaint and Defendant Toby G. Scammell having entered a general
3 appearance; consented to the Court’s jurisdiction over Defendant Scammell and
4 the subject matter of this action; consented to entry of this Judgment without
5 admitting or denying the allegations of the Complaint (except as to jurisdiction);
6 waived findings of fact and conclusions of law; and waived any right to appeal
7 from this Judgment:

8 **I.**

9 IT IS HEREBY ORDERED, ADJUDGED, And DECREED that Defendant
10 Scammell and Defendant Scammell’s agents, servants, employees, attorneys, and
11 all persons in active concert or participation with them who receive actual notice of
12 this Judgment by personal service or otherwise are permanently restrained and
13 enjoined from violating, directly or indirectly, Section 10(b) of the Securities
14 Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5
15 promulgated thereunder, 17 C.F.R. § 240.10b-5, by the use of means or
16 instrumentalities of interstate commerce, of the mails, or of the facilities of a
17 national securities exchange, in connection with the purchase or sale of any
18 security:

- 19 (a) To employ any device, scheme, or artifice to defraud;
- 20 (b) To make any untrue statement of a material fact or to omit to state a
21 material fact necessary in order to make the statements made, in the
22 light of the circumstances under which they were made, not
23 misleading; or
- 24 (c) To engage in any act, practice, or course of business which operates or
25 would operate as a fraud or deceit upon any person.

26 **II.**

27 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
28 that Defendant Scammell shall pay disgorgement of ill-gotten gains, prejudgment

1 interest thereon, and a civil penalty pursuant to Section 21(d)(3) of the Exchange
2 Act. The Court shall, in its discretion, determine the amounts of the disgorgement
3 and civil penalties upon motion of the Commission. Prejudgment interest shall be
4 calculated from August 31, 2009, based on the rate of interest used by the Internal
5 Revenue Service for the underpayment of federal income tax as set forth in 26
6 U.S.C. § 6621(a)(2). In connection with the Commission's motion for
7 disgorgement and/or civil penalties, and at any hearing held on such a motion: (a)
8 Defendant Scammell will be precluded from arguing that he did not violate the
9 federal securities laws as alleged in the Complaint; (b) Defendant Scammell may
10 not challenge the validity of the Consent or this Judgment; (c) solely for the
11 purposes of such motion, the allegations of the Complaint shall be accepted as and
12 deemed true by the Court; and (d) the Court may determine the issues raised in the
13 motion on the basis of affidavits, declarations, excerpts of sworn deposition or
14 investigative testimony, and documentary evidence, without regard to the
15 standards for summary judgment contained in Rule 56(c) of the Federal Rules of
16 Civil Procedure. In connection with the Commission's motion for disgorgement
17 and/or civil penalties, the parties may take discovery, including discovery from
18 appropriate non-parties.

19 VI.

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
21 Consent of Defendant Scammell is incorporated herein with the same force and
22 effect as if fully set forth herein, and that Defendant Scammell shall comply with
23 all of the undertakings and agreements set forth therein.

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VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

A handwritten signature in blue ink that reads "Dale S. Fischer". The signature is written in a cursive, flowing style.

DATED: 6/15/12

The Honorable Dale S. Fischer
United States District Judge